

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BLACKWELL SPENCER,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,

Defendant.

CASE NO. C12-6026 RJB-JRC

ORDER TO SHOW CAUSE

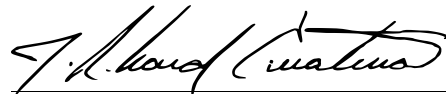
This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judges Rules MJR 1, MJR 3, and MJR 4.

Plaintiff has been granted in forma pauperis status. Plaintiff alleges he was denied the ability to attend a family member's funeral and that defendants were negligent in handling his request. He brings his action pursuant to 42 U.S.C. § 1983. A prisoner has no constitutional right to attend a family member's funeral. *Sorenson v. Minnesota Dept. of Corrections*, 2012 WL 3150722 (D. Minn. 2012).

1 To state a claim pursuant to 42 U.S.C. § 1983, certain elements must be met: (1) the
2 defendant must be a person acting under the color of state law; and (2) the person's conduct must
3 have deprived the plaintiff of rights, privileges or immunities secured by the constitution or laws
4 of the United States. *Parratt v. Taylor*, 451 U.S. 527, 535, 101 S. Ct. 1908 (1981) (overruled in
5 part on other grounds); *Daniels v. Williams*, 474 U.S. 327, 330-31, 106 S. Ct. 662 (1986).
6 Implicit in the second element, is a third element of causation. *See Mt. Healthy City School Dist.*
7 *Bd. of Educ. v. Doyle*, 429 U.S. 274, 286-87, 97 S. Ct. 568 (1977); *Flores v. Pierce*, 617 F.2d
8 1386, 1390-91 (9th Cir. 1980), cert. denied, 449 U.S. 875, 101 S. Ct. 218 (1980). When a
9 plaintiff fails to allege or establish one of the three elements, his complaint must be dismissed.
10 That plaintiff may have suffered harm, even if due to another's negligent conduct does not in
11 itself necessarily demonstrate an abridgment of constitutional protections. *Davidson v. Cannon*,
12 474 U.S. 344, 106 S. Ct. 668 (1986).

13 The Court orders plaintiff to show cause why this action should not be dismissed for
14 failure to state a claim with the dismissal counting as a strike pursuant to 28 U.S.C. §1915(e) and
15 (g). Plaintiff will have until January 22, 2013 to file a response.

16 Dated this 10th day of December, 2012.

17
18 

19 J. Richard Creatura
20 United States Magistrate Judge
21
22
23
24